

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>April 7, 2011</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
BENJAMIN WATERS,

Plaintiff,

- against -

DANIEL STEWART, et al.

Defendants.
----- X

09 Civ. 10314 (PAC) (FM)

ORDER ADOPTING R&R

HONORABLE PAUL A. CROTTY, United States District Judge:

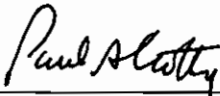
On December 21, 2009, Benjamin Waters commenced this prisoner civil rights action, pro se. The Court referred general pretrial matters and dispositive motions in the case to Magistrate Judge Frank Maas on January 4, 2010. After receiving several letters from Waters indicating that he did not wish to pursue this case, Magistrate Judge Maas held a telephone conference with Waters on August 3, 2010 to verify his intent. Waters reiterated his desire to discontinue the case, confirmed that he had not been pressured to do so, and indicated that he had signed a stipulation of voluntary discontinuance. That same day, Magistrate Judge Maas issued a Report and Recommendation ("R&R"), recommending that the Court dismiss the case. The R&R provided fourteen days for written objections, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). No objections have been filed.

A district court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). "The district court may adopt those portions of the report to which no timely objection has been made, so long as there is no clear error on the face of the record." Feehan v. Feehan, No. 09 Civ. 7016 (DAB), 2011 WL 497776 at *1 (S.D.N.Y. Feb. 10, 2011).

Finding no clear error, the Court adopts Judge Maas's R&R in full and dismisses Waters's claims against all defendants. The Clerk of Court is directed to terminate this case. Pursuant to 28 U.S.C § 1915(a), any appeal from this order would not be taken in good faith.

Dated: New York, New York
April 7, 2011

SO ORDERED



PAUL A. CROTTY
United States District Judge

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